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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/718,806	11/24/2003	Young-Joo Yee	0630-1870P	3449
2292 7590 07/24/2007 BIRCH STEWART KOLASCH & BIRCH PO BOX 747 FALLS CHURCH, VA 22040-0747			EXAMINER SINGH, DALZID E	
			ART UNIT 2613	PAPER NUMBER
			NOTIFICATION DATE 07/24/2007	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mailroom@bskb.com

Office Action Summary	Application No. 10/718,806	Applicant(s) YEE ET AL.	
	Examiner Dalzid Singh	Art Unit 2613	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 May 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-38 is/are pending in the application.
- 4a) Of the above claim(s) 34-36 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 2, 4, 5 and 7-33 is/are allowed.
- 6) ☒ Claim(s) 1, 3, 6 and 37 is/are rejected.
- 7) ☒ Claim(s) 38 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Applicant's election with traverse of the restriction requirement in the reply filed on 03 May 2007 is acknowledged.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1, 3 and 6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitation "the optical receiving means". There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1, 3 and 6 are rejected under 35 U.S.C. 102(e) as being anticipated by Novotny et al (US Patent No. 6,751,395).

Regarding 1, Novotny et al disclose an optical receiver using a variable optical attenuator, as shown in Fig. 1, comprising:

a base member (101) formed in a predetermined shape;

an input optical fiber (111) emitting an optical signal toward the base member;

an optical means diode (130) provided at one side of the base member, and receiving an optical signal (see col. 4, lines 65-67 to col. 5, lines 1-17); and

a variable optical attenuator (150) actuated by an electrostatic force, changing a path of laser emitted from the input optical fiber, and thus adjusting optical power made to be incident to the optical receiving means.

Regarding claim 3, wherein the optical receiving means comprises:

a block for fixing an-the optical diode which is fixed at the base member (as indicated in col. 4, lines 65-67 to col. 5, lines 1-17, since the photodetector may be formed on the substrate, therefore it is inherent that the photodetector is fixed on the substrate block); and

the optical diode having an optical diode active area where the laser is received, the optical diode being and mounted at the block for fixing the optical diode (it is inherent that the photodetector have active area to receive the light signal).

Regarding claim 6, wherein a lens for focusing laser to the input optical fiber and the optical receiving means is provided (it is inherent to have lens to focus the light beam into the detector in order to maximize light received).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 37 is rejected under 35 U.S.C. 103(a) as being unpatentable over Novotny et al (US Patent No. 6,751,395).

Regarding claim 37, an optical transmitter using a variable optical attenuator, as shown in Fig. 1, comprising:

a base member (101) formed in a predetermined shape;

an output optical fiber (112) mounted at one side of the base member, and receiving an optical signal; and

a variable optical attenuator (150) actuated by an electrostatic force, changing a path of laser emitted from the optical fiber (111), and thus adjusting optical power transmitted to the output optical fiber.

Novotny et al disclose optical fiber (111) for emitting the laser signal and differ from the claimed invention in that Novotny et al do not specifically disclose an optical diode mounted at one side of the base member and emitting an optical signal. However, it would have been obvious to an artisan of ordinary skill in the art at the time the invention was made to mount a laser diode at one side of the base member. One of ordinary skill in the art would have been motivated to do such in order to reduce fiber length and hence reduce signal loss traveling along such fiber.

Allowable Subject Matter

8. Claims 2, 4, 5, 7-33 are allowed.
9. Claim 38 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

10. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Kosuge et al (US Patent No. 6,856,749) is cited to show optical coupling and alignment device.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dalzid Singh whose telephone number is (571) 272-3029. The examiner can normally be reached on Mon-Fri 9am - 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jason Chan can be reached on (571) 272-3022. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

DS
July

DALZID SINGH
PRIMARY EXAMINER

Dalrid Singh